

April 1, 2003

Exemption No. 8009

Regulatory Docket No. FAA-2003-14770

Mr. Greg C. Gallaher
Blue Sky Helicopter, Inc.
1535 North Tuckahoe Road
Williamstown, NJ 08094

Dear Mr. Gallaher:

By letter filed March 21, 2003, you petitioned the Federal Aviation Administration (FAA) on behalf of Blue Sky Helicopter, Inc. (Blue Sky) for an exemption from § 135.143(c)(2) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to permit Blue Sky to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

The FAA issued a grant of exemption in circumstances similar in all material respects to those presented in your petition. In Grant of Exemption No. 7776 (copy enclosed), the FAA found that although the ground sensors necessary for Mode S transponders are in place, the FAA is reconsidering the comments submitted in response to Notice No. 96-5, and its position on Mode S equipment requirements in relation to the current aviation environment. In May 1996, the FAA proposed to rescind the Mode S transponder requirement for all aircraft operations under part 135 and for certain aircraft operations under part 121 that are not required to have Traffic Alert and Collision Avoidance System (TCAS) II (61 FR 26036). Further, the FAA found that public interest would not be served by compelling certain individuals to purchase and install Mode S transponders.

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented by the petitioner in the enclosed grant of exemption. In addition, I have determined that the reasons stated by the FAA for granting the enclosed exemption also apply to the situation you present.

AFS-03-317

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Blue Sky Helicopter, Inc., is granted an exemption from 14 CFR § 135.143(c)(2) to the extent necessary to operate certain aircraft, subject to the following conditions and limitations:

1. Any aircraft listed on Blue Sky's part 135 operations specifications at the date of issuance of this exemption may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder.
2. Any other aircraft for which installation of a transponder is needed may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder, provided notice is given to Blue Sky's principal operations inspector.

This exemption terminates on April 1, 2005, unless sooner superseded or rescinded.

In an effort to allow the public to participate in tracking the FAA's rulemaking activities, we have transitioned to the Department of Transportation's Internet-accessible Docket Management System (DMS), located at <http://dms.dot.gov>. This new system enables interested persons to submit, view, and download requests to the DMS in accordance with 14 CFR § 11.63. Future requests should be submitted through this system.

Sincerely,

/s/
Anthony F. Fazio
Director, Office of Rulemaking

Enclosure